

REMARKS

Claims 1-7 were pending in the present application. Claims 5 and 6 have been amended herein and new claims 8-10 have been added herein to group the dependency of the claims in a different manner. Support for the amended and new claims can be found throughout the specification and original claims. No new matter has been added. Upon entry of the present amendment, claims 1-10 will be pending.

Applicants have also corrected a typographical error in the specification. Applicants erroneously referred to the copending application as "PCT/GB02/05743" rather than as "PCT/GB02/05738." Applicants have amended the specification to correct this typographical error. No new matter has been added.

I. The Claimed Invention is Not Obvious

A. Claims 2, 4, and 8-10

Claims 1-7 have been rejected under 35 U.S.C. §103(a) over U.S. Patent Application Publication No. US 2005/0171204 (hereinafter, the "'204 Publication"). Applicants respectfully request that the rejection be withdrawn in view of the following comments.

Applicants' present application claims priority to GB 0314129.8 filed June 18, 2003. The GB priority application teaches the following salts recited in Applicants' present claim 1: a (1R,2S)-2-hydroxyindan-1-amine salt, an L-arginine salt, a tert-butylamine salt, a choline salt, and a tris(hydroxymethyl)methylamine salt. These salts are also recited in claims 2 and 4 of the present application.

The '204 Publication claims priority to International Application No. PCT/GB02/05738 filed December 18, 2002, which was published as WO 03/51821 on June 26, 2003. Thus, the '204 Publication has as its earliest publication date June 26, 2003, which is after the filing date of Applicants' GB priority application (e.g., June 18, 2003). Accordingly, with respect to the (1R,2S)-2-hydroxyindan-1-amine salt, L-arginine salt, tert-butylamine salt, choline salt, and tris(hydroxymethyl)methylamine salt, the '204 Publication serves as a 35 U.S.C. §102(e) reference.

Subject matter developed by another person, which qualifies as a reference under 35 U.S.C. §102(e) shall not preclude patentability under 35 U.S.C. §103 where the subject matter and the claimed invention were, at the time the claimed invention was made, owned by the same

person or subject to an obligation of assignment to the same person. *See* 35 U.S.C. §103(c)(1); and *In re Fout*, 675 F.2d 297, 213 U.S.P.Q. 532 (C.C.P.A. 1982).

Statement of Common Ownership

In the present situation, the cited reference, the '204 Publication, and the present application, U.S. Serial No. 10/560,657, were at the time the invention of the present application was made, jointly owned by AstraZeneca AB.

The above statement is sufficient evidence to establish common ownership. *See* MPEP §706.02(l)(2). Indeed, the '204 Publication has been assigned to AstraZeneca AB and recorded on March 4, 2005 in Reel No. 015838 and Frame 0288; the present application has also been assigned to AstraZeneca AB and recorded on December 13, 2005 in Reel No. 017384 and Frame 0922.

Accordingly, with respect to claims 2, 4 and 8-10, which recite the (1R,2S)-2-hydroxyindan-1-amine, L-arginine, tert-butylamine, tris(hydroxymethyl)methylamine, and choline salts, Applicants respectfully request that the obviousness rejection be withdrawn.

B. Claims 1, 3 and 5-7

In regard to claims 1, 3, and 5-7, which recite the adamantylamine salt, N-benzyl-2-phenylethanaminium salt, and N-benzyl-2-(benzylamino) ethanaminium salt, Applicants respectfully request reconsideration based on the following comments.

The adamantylamine salt is non-volatile due to the high molecular weight of adamantylamine. Because of the non-volatility of this salt, a stable pharmaceutical composition can be prepared. In contrast, if a volatile amine is used, this could lead after evaporation of the amine to a more sticky residue primarily comprising (2S)-2-ethoxy-3-(4-{2-[hexyl(2-phenylethyl)amino]-2-oxoethoxy}phenyl)propanoic acid. The '204 Publication, does not specifically recite the adamantylamine salt, let alone teach its advantages.

The N-benzyl-2-phenylethanaminium and N-benzyl-2-(benzylamino)ethanaminium salts have high crystallinity, facilitating purification of these salts. The high crystallinity is shown by their XRPD values (see Figures D and E in the present application). The '204

Publication, does not specifically recite the N-benzyl-2-phenylethanaminium and N-benzyl-2-(benzylamino)ethanaminium salts, let alone teach their advantages.

Accordingly, with respect to claims 1, 3 and 5-7, which recite the adamantylamine salt, N-benzyl-2-phenylethanaminium salt, and N-benzyl-2-(benzylamino) ethanaminium salt, Applicants respectfully request that the obviousness rejection be withdrawn.

II. Conclusion

In view of the foregoing, Applicants respectfully submit that the claims are in condition for allowance. An early notice of the same is earnestly solicited. The Examiner is invited to contact Applicants' undersigned representative at (610) 640-7859 if there are any questions regarding Applicants' claimed invention.

The Commissioner is hereby authorized to debit any underpayment of fee due or credit any overpayment to deposit account 50-0436.

Respectfully submitted,

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